IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.4950 OF 2005

Subhash Ambadasji Mahatkar & Anr. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.

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None for the Petitioners.
Mr. R.D. Rane., GP for Respondent No.1.
Mr. R. D. Suryavanshi for Respondent No.2.

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CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

February 8, 2006.

P.C.

The matter was called out yesterday. The Learned Counsel has sought leave. The matter was adjourned today. When the matter called out today, none present for the petitioners.

The Petitioners' claim as belonging to Halba S.T. has been rejected. The Petitioners, by the present petition, have moved this Court to contend that their services should be protected relying on the judgment in the case of **State of Maharashtra vs. Milind and others,** (2001) 1 SCC 4. The Learned Counsel draws our attention to a judgment in the case of the **Bank of India and**

Another vs. Avinash D. Mandivikar and others, (2005) 7 SCC 690 and most specifically paragraph 10 where the Apex Court has observed as under:

> "The protection under Milind case cannot be extended to Respondent 1 employee as the protection was given under the peculiar factual background of that case. The employee concerned was a doctor and had rendered long years of service. This Court noted that on a doctor, public money has been spent and, therefore, it will not be desirable to deprive the society of a doctor's service. Respondent 1 employee in the present case is a bank employee and the factor which weighed with this Court cannot be applied to him."

Considering the judgment in the case of **Bank of India and another vs. Avinash D. Mandivikar and others,** (2005) 7 SCC 690, which also considers the judgment of the Apex Court in **R. Vishwanatha Pillai v. State of Kerala,** (2004) 2 SC 105, we are clearly of the opinion that no such blanket protection can be granted. In the light of that no interference is called for. The Petition is rejected.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)